IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA, 1928

WP(C).No. 24754 of 2006(V)

PETITIONER:

J.SOMASEKHARAN, THARA HOUSE,
AMARIVILA, VENNIYOOR, VENGANNOOR,
NELLUVILA P.O., THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.B.JAYASURYA

RESPONDENTS:

---

1. THE SPECIAL GRADE SECRETARY,
VENGANNOOR GRAMA PANCHAYATH, OFFICE OF THE
VENGANNOOR GRAMA PANCHAYATH, VENGANNOOR,
THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PANCHAYATH,
OFFICE OF THE DIRECTORATE OF PANCHAYATH,
THIRUVANANTHAPURAM.

3. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

ADDL. 4. THE HEADMASTER,
LOWER PRIMARY SCHOOL,
NELLIVILA, VENGANNOOR,
THIRUVANANTHAPURAM DISTRICT.
(IMPLEADED AS PER ORDER DT.25.9.06 IN I.A. NO.13302/2006)

R1 BY ADV. SRI.POOVAPPALLY M.RAMACHANDRAN NAIR
R2 TO R4 BY ADV. SRI.MATHEW G. VADAKKEL, SR. GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/01/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 24754 OF 2006

Dated this the 1st day of January, 2007

JUDGMENT

The Panchayat has filed a counter affidavit. So also the additional 4th respondent-Headmistress has filed a counter affidavit. The Headmistress has stated in her counter that the School in question is situated at Nellivila Junction where all types of anti-social activities such as gambling, drinking etc are going on - especially at hight hours which is reflected in the school compound also. Local people are also using the compound for grazing their domestic animals since there is no compound wall. In order to prevent the illegal activities, school authorities initially decided to build compound walls on all sides. The disputed pathway lies on the western side adjacent to Shed No.VII. Several times the School authorities applied for sanction before the Panchayat authorities for arranging funds. Every time due to high influence of some local parties sanction was not issued by the Panchayat. Finally Rs.80,000/- was allotted for the construction of the compound wall and by utilizing that fund the School authorities proceeded to construct compound wall on the western side. But at that time some local people and goondas obstructed the construction. Initially the Pathway adjacent to the western boundary was only 13 feet

in width. But due to the interference of Circle Inspector of Police, Vizhinjam, Block authorities, BPO, AEO and office bearers of the PTA, it was finally decided to provide a pathway of 14 ½ feet width. The same was recorded in the school register also. The Headmistress concludes her counter affidavit by pointing out that the boundary wall is highly essential for a good atmosphere and for the welfare of the children as well as for good maintenance of the school property and this was why the then Headmistress took initiative from 31.3.04, lest the fund should lapse. Work has been carried out up to a length of 65 to 70 meters. For carrying out construction of the remaining portion, Rs.1,00,000/- is also allotted.

2. Heard the submissions of Mr.B.Jayasurya, counsel for the petitioner, Mr.Poovapally M.Ramachandran Nair, counsel for the Panchayat and Sri.Mathew G. Vadakkel, learned Government Pleader. Learned Government Pleader submitted that pursuant to the observations in Ext.P1 judgment of this Court, a Taluk Surveyor was deputed to measure the property and he has furnished a plan to the Panchayat. Mr.Ramachandran Nair submits that the construction presently put up by the school authorities, to a certain extent violates the limits of the School properties. To that extent Ext.P2 according to him is justified. I find certain force in the above submission of Mr.Ramachandran Nair. At the same time I am not inclined to accept the submissions of learned counsel for the petitioner or of

Sri.Ramachandran Nair that the Headmistress of the school is the trouble shooter. The affidavit sworn by the Headmistress is quite convincing. I agree with the submission for the Headmistress that compound wall is absolutely necessary for the school.

Under these circumstances, the Writ Petition will stand disposed of directing the Panchayat to ensure that the compound wall is constructed within the limits of the School property as defined in the plan which is furnished by the Taluk Surveyor on the basis of the measurement already conducted. Demolition of any construction already put up should be simultaneous with replacing of the same by a similar construction so that the school compound at no point of time will be without a compound wall. The Panchayat will ensure that the construction is completed before 31.3.2007.

PIUS C. KURIAKOSE, JUDGE

btt